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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,545	12/05/2005	Marcel Hermanus Johannes Rensen	3135-051782	1759
28289 7590 07/18/2008 THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219				
EXAMINER				
ALIE, GHASSEM				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
07/18/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/538,545

**Applicant(s)**

RENSEN ET AL.

**Examiner**

GHASSEM ALIE

**Art Unit**

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04/15/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-31 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) 35-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Newly submitted claims 35-37 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claim 29 which have originally presented and examined and newly submitted claims 35-37 are related as subcombinations disclosed as usable together in a single combination.

- I. Claims 29, drawn to a punching machine including a punch plate that support the cutting plate with a passage for slug connecting onto the cutting opening in the cutting plate, which is larger than the cutting opening.
- II. Claims 35, drawn to a punching machine including a cutting opening fro the cutting plate that has a uniform diameter.
- III. Claims 36, drawn to a punching machine including a cutting edge for the stamp that has a substantially flat profile.
- VI. Claims 37, drawn to a punching machine including a cutting opening where its entire edge on eth side remote from the side supporting the material layer forms an angled planar surface with respect to a cutting edge of the stamp.

Claim 25 link(s) inventions I-VI. The restriction requirement among the linked inventions is **subject to** the nonallowance of the linking claim(s) 25. Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions **shall** be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104 **Claims that require all the limitations of an allowable linking claim** will be entered as a matter of right if the amendment is

presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312. Applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, the allowable linking claim, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I-VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, e.g., subcombination I has a separate utility such as it could be used without the above-mentioned features set forth in inventions II-IV. Conversely, subcombination II-IV has a separate utility such as it could be used without the above-mentioned features set forth in invention I. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a

continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 35-37 are withdrawn

from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 18-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Hashimoto et al. (2001/0020409), hereinafter Hashimoto. Regarding claim 18, Hashimoto teaches a method for releasing a slug adhering to a stamp 2 in a punching machine 1, by carrying the stamp, after performing a punching operation on a sheet material, with the active stroke at least partially through a cutting opening (a) in a cutting plate 3 supporting the sheet material, and carrying the stamp during the return stroke back again through the cutting opening (a) in the cutting plate which close-fittingly encloses the stamp, wherein the cutting opening functions during the return stroke such that the side of the cutting plate 3a remote from the sheet material engages around the cutting opening as a scraping edge on the slug adhering to the stamp and releases it from the stamp. See Figs. 1-9 and paragraphs 60-64 in Hashimoto.

Regarding claim 19, Hashimoto teaches everything noted above including that the stamp is carried through the cutting opening in the cutting plate during the punching

operation such that the periphery of the slug adhering to the stamp is released over only a part of the periphery from the cutting plate.

Regarding claim 20, Hashimoto teaches everything noted above including that the stamp 2 is carried through the cutting opening (a) in the cutting plate 3 during the punching operation such that the periphery of the slug adhering to the stamp is wholly released from the cutting plate.

Regarding claim 21, Hashimoto teaches everything noted above including that the return stroke of the stamp is continued so far that the cutting opening in the cutting plate and the sheet material are left clear by the stamp.

Regarding claim 22, Hashimoto teaches everything noted above including that after the sheet material has been left clear by the stamp, the processed sheet material is removed from the cutting plate.

Regarding claim 23, Hashimoto teaches everything noted above including a sheet material for processing is placed on the cutting plate before commencing the punching operation.

Regarding claim 24, Hashimoto teaches everything noted above including the slug released from the stamp is discharged. It should be noted that the slug is discharged through the opening below the opening a, b. See Fig. 4 in Hashimoto.

Regarding claim 25, Hashimoto teaches a punching machine for releasing a slug adhering to a stamp including a cutting plate 3 provided with at least one cutting opening (a), , at least one stamp 2 for linear intermittent displacement which is displaceable between a position in which the cutting opening in the cutting plate is left clear by the stamp and a

position in which the stamp is carried through the cutting opening, and wherein the stamp passes close-fittingly through the cutting opening of the cutting plate, wherein the cutting opening in the cutting plate has a scraping edge 3a for releasing the slug adhering to the stamp. See Figs. 1-9 and paragraphs 60-64 in Hashimoto.

Regarding claim 26, Hashimoto teaches everything noted above including that the free space between the stamp and the associated cutting plate in the position where the stamp is carried through the cutting opening is smaller than 0.02 mm. It should be noted that the free space between the stamp 2 and the cutting pate or the cutting edge 3a of the cutting plate is less than 5 to 10  $\mu\text{m}$  which is less than 0.02 mm. See paragraph 63 in Hashimoto.

Regarding claim 27, Hashimoto teaches everything noted above including that the cutting plate is adapted to support a material layer for processing, and the edge of the cutting opening on the side remote from the side supporting the material layer is sharp. It should be noted the edge of the cutting opening of the cutting plate 3 that is associated with the stamp 2 is sharp. The sharp edge is located remotely from a top surface of the cutting plate that supports the material layer. It should also be noted that the remote edge of the cutting opening is as sharp as the remote edge of the cutting opening in the current application. See Figs. 4-5, 9A in Hashimoto and Figs. 1-4 in the current application.

Regarding claim 28, Hashimoto teaches everything noted above including that the the edge of the cutting opening on the side remote from the side supporting the material layer at least locally encloses an angle with a cutting edge of the stamp.

Regarding claim 29, Hashimoto teaches everything noted above including that the cutting pate 3 is supported by a punch plate with a passage (b) for the slug connecting onto



the cutting opening in the cutting plate, which passage is larger than the cutting opening. It should be noted that the top section of the die 3 could be considered to the cutting plate and the lower section of the die 3 is considered to be the punch plate. It should also be noted that the passage (b) is larger than the cutting opening (a). See Figs. 4-5 in Hashimoto.

Regarding claims 30, Hashimoto teaches everything noted above including that the punch plate supports a plurality of plates. It should be noted that each side of the cutting opening has a cutting plate that is supported by the punch support plate.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

To the degree that it could be argued that Hashimoto does not teach that the cutting plate is attached to a separate punch plate, the rejection below is applied.

7. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto or in view of Isamu (JP 07 132497 A).. Regarding claim 29-31, Hashimoto teaches everything noted above except separate (not integrated) plate punch that releasably supports separate punch plate. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to separate the cutting plates from the punch in Hashimoto, since it has been held that constructing a formerly integral structure in

various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

In addition, the used of separate cutting plates releasably supported by a punch plate is well known in the art such as taught by Isamu (JP 07 132497 A). Isamu teaches a plurality cutting plates 3 releasably supported by a punch plate 11. See Fig. 1 in Isamu. It would have been obvious to a person of ordinary skill in the art to separately and releasably connect the cutting plates in Hashimoto's cutting device to the punch plate, in order to enable the user to replace the cutting plates.

#### ***Response to Amendment***

8. Applicant's arguments filed on 04/15/08 have been fully considered but they are not persuasive.

Applicant's argument that Hashimoto does not teach a scraping edge is not persuasive. The bottom edge of the cutting edge 3a of the cutting plate 3 blocks a chad or a small metal piece attached to the punch 2 during the return stroke of the punch. Therefore, the cutting edge 3a can be considered as a scraping edge that scraps the small metal piece formed when the punch hole is punched in the soft metal sheet and helps the small metal piece to drop out of the undercut portion 3b. See paragraph 56 and Fig. 5 in Hashimoto.

#### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3724

GA

July 16, 2008

/Ghassem Alie/

Primary Examiner, Art Unit 3724